



DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request: Renewal Without Change of Information Collection Requirements in Connection With the Imposition of a Special Measure Concerning North Korea as a Jurisdiction of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of a continuing effort to reduce paperwork and respondent burden, FinCEN invites comment on a renewal, without change, to information collection requirements finalized on November 9, 2016, imposing a special measure with respect to North Korea as a jurisdiction of primary money laundering concern. This request for comments is being made pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments are welcome and must be received on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Comments may be submitted by any of the following methods:

- Federal E-rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN-2022-0009 and the specific Office of Management and Budget (OMB) control number 1506-0071.

- Mail: Global Investigations Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN-2022-0009 and OMB control number 1506-0071.

Please submit comments by one method only. Comments will be reviewed consistent with the Paperwork Reduction Act of 1995 (PRA) and applicable OMB regulations and guidance. Comments submitted in response to this notice will become a

matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at 1-800-767-2825 or electronically at <https://www.fincen.gov/contact>.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Public Law 107–56 (October 26, 2001), and other legislation, including most recently the Anti-Money Laundering Act of 2020 (AML Act).¹ The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1960, and 31 U.S.C. 5311–5314 and 5316–5336, and it includes notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement AML programs and compliance procedures.² Regulations implementing the BSA appear at 31 CFR chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.³

¹ The AML Act was enacted as Division F, sections 6001-6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283, 134 Stat 3388 (2021).

² Section 358 of the USA PATRIOT Act expanded the purpose of the BSA, by including a reference to reports and records “that have a high degree of usefulness in intelligence or counterintelligence activities to protect against international terrorism.” Section 6101 of the AML Act added language that expanded the purpose of the BSA even further, to cover such matters as preventing money laundering, tracking illicit funds, assessing risk, and establishing appropriate frameworks for information sharing.

³ Treasury Order 180-01 (reaffirmed Jan. 14, 2020). Therefore, references to the authority of the Secretary of the Treasury under Section 311 of the USA PATRIOT Act apply equally to the Director of FinCEN.

Section 311 of the USA PATRIOT Act (Section 311), codified at 31 U.S.C. 5318A, grants FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, financial institution, class of transactions, or type of account is of “primary money laundering concern,” to require domestic financial institutions and financial agencies to take one or more “special measures.”

Special measures one through four, codified at 31 U.S.C. 5318A(b)(1)–(b)(4), impose additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows FinCEN to impose prohibitions or conditions on the opening or maintenance of certain correspondent accounts. Special measures are safeguards that protect the U.S. financial system from money laundering and terrorist financing.

FinCEN issued the final rule imposing the fifth special measure to prohibit U.S. financial institutions from opening or maintaining correspondent accounts for, or on behalf of, North Korean banking institutions.⁴ The rule requires that U.S. financial institutions take reasonable steps to not process transactions through the correspondent account of a foreign bank in the United States, if such transactions involve a North Korean financial institution, and requires institutions to apply special due diligence to guard against the use of correspondent accounts by North Korean financial institutions. See 31 CFR 1010.659.

U.S. financial institutions are required under 31 CFR 1010.659(b)(3)(i)(A) to notify holders of their foreign correspondent accounts that they may not provide North Korean financial institutions with access to such accounts. The requirement is intended to ensure cooperation from correspondent account holders in denying North Korea access to the U.S. financial system. U.S. financial institutions are required under 31 CFR

⁴ FinCEN, *Final Rule – Imposition of Special Measures Against North Korea as a Jurisdiction of Primary Money Laundering Concern*, 81 FR 78715, (Nov. 9, 2016).

1010.659(b)(4)(i) to document compliance with the notification requirement. The information is used by federal agencies and certain self-regulatory organizations to verify compliance with 31 CFR 1010.659.

II. Paperwork Reduction Act (PRA)⁵

Title: Information Collection Requirements in Connection With the Imposition of a Special Measure Concerning North Korea as a Jurisdiction of Primary Money Laundering Concern.

OMB Control Number: 1506-0071.

Report Number: Not applicable.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the imposition of a special measure against North Korea as a jurisdiction of primary money laundering concern pursuant to the authority contained in 31 U.S.C. 5318A. See 31 CFR 1010.659.

Type of Review: Renewal without change of a currently approved collection.

Affected Public: Businesses or other for-profit institutions, and not-for-profit institutions.

Frequency: One time notification and recordkeeping associated with the notification. See 31 CFR 1010.659(b)(3)(i)(A) and 1010.659(b)(4)(i).

Estimated Number of Respondents: 16,588.

Respondent Financial Institutions by Category

Type of Institution	Count
Banks, savings associations, thrifts, trust companies ¹	5,264
Credit Unions ²	5,157
Broker-dealers ³	3,527
Mutual funds ⁴	1,591
Futures commission merchants and introducing brokers in commodities ⁵	1,049
Total	16,588

⁵ Public Law 104-13, 44 U.S.C. 3506(c)(2)(A).

¹ All counts are from the Financial Institution Data Retrieval System (FINDRS) (accessed Aug. 25, 2022) for Q2 2022. These counts include entities without a Federal functional regulator.

² All counts are from the Financial Institution Data Retrieval System (FINDRS) (accessed Aug. 25, 2022) for Q2 2022. These counts include entities without a Federal functional regulator.

³ According to numbers provided by the SEC, there are 3,526 brokers or dealers in securities as of the end of fiscal year 2021 (*see SEC, Fiscal Year 2023 Congressional Budget Justification*, p. 33, https://www.sec.gov/files/FY%202023%20Congressional%20Budget%20Justification%20Annual%20Performance%20Plan_FINAL.pdf).

⁴ This is consistent with estimates in the 2018 notice to renew OMB control number 1506–0033 (83 FR 46011 (Sept. 11, 2018)).

⁵ As of September 30, 2022, the Commodity Futures Trading Commission stated there are 60 futures commission merchants and 989 introducing brokers in commodities, totaling 1,049.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden: 16,588 hours.

When the final rule was published in November 2016, the number of U.S. financial institutions affected by the rule was estimated at 5,000. FinCEN has since revised the estimated number of affected U.S. financial institutions upward to account for all domestic financial institutions that could potentially maintain correspondent accounts for foreign banks. There are approximately 16,588 such financial institutions doing business in the United States.

Records required to be retained under the BSA must be retained for five years. Generally, information collected pursuant to the BSA is confidential, but may be shared as provided by law with regulatory and law enforcement authorities.

Request for Comments:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. Comments submitted in response to this notice will be summarized and/or included in a request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs, cost of operation and maintenance, and cost involved in purchasing services.

Himamauli Das,

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Financial Crimes Enforcement Network.

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